

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
SOUTHEASTERN DIVISION**

GREGORY RUTLEDGE,

Plaintiff,

v.

SUNBELT RENTALS, INC.

Defendant.

Case No. 1:21-CV-46-SNLJ

MEMORANDUM AND ORDER

Defendant and third-party plaintiff Sunbelt Rentals, Inc. (“Sunbelt Rentals”) brings this motion for summary judgment against third-party defendant Matthew Butler (“defendant Butler”). [Doc. 43.] After being granted a motion for an extension of time in which to file a response [Doc. 40; Doc. 42] defendant Butler filed a two-page response claiming that a motion for summary judgment is untimely under Federal Rule of Civil Procedure 56(b). According to defendant Butler, “a motion for summary judgment may be filed but not until after the close of all discovery.” [Doc. 43 at 2.] Rule 56(b) clearly and plainly states, in whole, “[u]nless a different time is set by local rule or the court orders otherwise, a party may file a motion for summary judgment *at any time* until 30 days after the close of all discovery.” (emphasis added). There is no way to square defendant Butler’s interpretation of Rule 56(b) with the clear dictates of Rule 56(b). Sunbelt Rentals’ motion is timely and defendant Butler must file a proper response.

Accordingly,

IT IS HEREBY ORDERED that defendant Butler is to properly respond to Sunbelt Rentals' motion for summary judgment [Doc. 37.] within fifteen (15) days of the date of this order in accordance with Federal Rule of Civil Procedure 56 and the Local Rules, otherwise summary judgment will be granted to Sunbelt Rentals.

Dated this 7th day of October, 2022.

A handwritten signature in dark ink, reading "Stephen N. Limbaugh, Jr.", is written over a horizontal line.

STEPHEN N. LIMBAUGH, JR.
SENIOR UNITED STATES DISTRICT JUDGE